

**REMARKS**

Claims 1-4, 8-12, 14, 16-35 and 39-50 are all the claims pending in the application.

- This is a Supplemental Amendment in response to the Office Action mailed February 6, 2006. It follows a previous Response Amendment and an Examiner Interview on June 21, 2006.
- In the Office Action, all pending claims were rejected under the doctrine of double patenting and as being obvious over the teachings of primary reference Banks in combination with Baumgartner, Marshak, Kameraman and/or Vin.
- These rejections were discussed in the June 21 Interview. At the Interview consensus could not be reached over the meaning of the word “location” in the claims and, accordingly, whether the Banks taught the claimed service record that included the user’s location. To resolve this disagreement and as discussed with the Examiner, Applicants have made amendments to the independent claims to clarify what is meant by the term “location.”
- The Examiner also requested certain other amendments. In response, Applicants are making additional amendments to the claims.
- In this Supplemental Amendment, therefore, all independent claims are amended, certain dependent claims are also amended and one claim is cancelled without prejudice. In addition, a Terminal Disclaimer is being filed herewith.
- As will be apparent, these amendments and the filing of the Terminal Disclaimer are being made in an effort to obtain expeditious allowance and not because Applicants accept the rejections in the Office Action or Examiner positions expressed in the Interview.
- A brief discussion follows.

### EXAMINER'S INTERVIEW

As a preliminary matter, Applicants and their representative Craig Opperman wish to thank the Examiner for the courtesy extended during the June 21, 2006 Examiner Interview. Despite the lack of consensus, Applicants appreciate the Examiner's well-articulated position and the constructive discussion and suggestions on moving this application towards allowance.

In summary, at the Interview there were different interpretations of the meaning of the word "location" and, accordingly, whether primary reference Banks taught a service record that contains a user's location. Applicants asserted that the meaning of claim term "location" means the actual location of the relevant user and that Banks does not teach keeping a record of a user's actual login location. The Examiner – in interpreting the claim in its broadest sense – countered that the term "location" encompasses a "virtual" location remote from the physical location. Therefore, according to the Examiner, Banks taught keeping a record of the user's login location.

It was agreed that Banks did not teach keeping a record of the user's physical location. Thus, alternatives to resolving this interpretation difference were explored. These were very fruitful and it was suggested that amending the claims to tie the user's login location to the location of client programs, associated with the user's communication device, may place the claims in a condition for allowance.

In addition the Examiner requested a clarifying amendment to distinguish the service servers from the client devices and to clarify that the service servers were not co-located.

Similarly, the Examiner requested removal of the phrase "no matter where the user is located" from the claims.

Finally, the filing of a Terminal Disclaimer was discussed.

### OFFICE ACTION REJECTIONS

In summary, the claims have been rejected under both double patenting and § 103 grounds:

#### **I. CLAIM REJECTIONS BASED ON DOUBLE PATENTING**

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The Office Action rejected the claims based on a judicially created doctrine of double patenting as being un-patentable over the claims of co-pending, related applications 10/722,051; 10/721,343; and 10/721,905.

Applicants' representatives are filing a Terminal Disclaimer with this Supplemental Amendment, thus making moot this rejection.

**II. CLAIM REJECTIONS - 35 USC § 103(a)**

The claims have been rejected under 35 U.S.C. 103

"as being unpatentable over Michael Banks "America Online: A Graphics Based Success Evaluation", and further in view of Baumgartner et al. US patent 5,195,086, and Marshak "Beyond Mail for Windows" and Kameraman et al. US patent 5,519,834, Vin et al. "Multimedia Conferencing in the Etherphone Environment".

In making this rejection, the Office Action states that

"Banks teaches a communication system ... comprising:...

c) at least one service record for the first and second logged in users [apparent in order to indicate if a member is currently online. See page 3 first paragraph]; the service record including user identification (screen names) and associated location where the user is logged in no matter where they are located (page 3, 1st paragraph see "where a member is from")

**III. APPLICANTS' RESPONSE TO THE § 103 REJECTIONS**

As pointed out previously and at the June 21 Examiner Interview, Applicants believe these rejections cannot be sustained for a number of reasons:

- (a) Banks' dial-up modem system does not, in fact, teach a service record that includes a record of the user's location;
- (b) It is not obvious to combine Banks with Baumgartner; and
- (c) It is also not obvious to combine other references such as Kameraman with Banks as alleged by the Examiner.

Each of these points has been explored before and it is, therefore, not necessary to repeat Applicants' arguments here except to re-iterate Applicants' point of view that the word "location" means the actual location of the user and that this concept is well supported and fully disclosed in the specification.

Specifically, the specification clearly describes the user's location as the actual user location. For example:

- “[t]his service record identifies the location of the callee's<sup>1</sup> Collaboration Initiator as well as the network ports that the callee is connected to.”<sup>2</sup>
- “for real-time sessions, the Collaboration Initiator queries the Service Server module 69 inside AVNM 63 for the current location of the specified participants. Using this location information, it communicates (via the AVNM) with the Collaboration Initiators of the other session participants to coordinate session setup.”<sup>3</sup>
- “Information is also sent from the Collaboration Initiator to the AVNM indicating the location of the user, the types of services available on that workstation (e.g., videoconferencing, data conferencing, telephony, etc.) and other relevant initialization information.”<sup>4</sup>
- “When one or more conferees are at distant locations, the respective MLAN Servers 60 of the involved MLANs 10, on a peer-to-peer basis . . . each MLAN 10 contains updated information as to the capabilities

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<sup>1</sup> A callee is a user that is being called by another user.

<sup>2</sup> See application's specification paragraph [0151] in the pre-grant publication 2004/107253.

<sup>3</sup> See application's specification paragraph [0134] in the pre-grant publication 2004/107253.

<sup>4</sup> See application's specification paragraph [0129] in the pre-grant publication 2004/107253.

of all of the system CMWs 12, and also the current locations of all parties available for teleconferencing.”<sup>5</sup>

*(emphasis added)*

Nonetheless, Applicants have chosen to define this meaning by making a clarifying amendment to the independent claims.

#### IV. AMENDMENTS

Despite disagreement as to what the claim language meant and whether the references were obvious to combine, Applicant's have amended the claims as discussed with the Examiner: Specifically:

- The independent claims have been amended to clarify that the claimed user location is the user's actual physical location. This clarification has been accomplished by amending the claims to comprise the service record including the location of at least one client program associated with the communication device used by the user. Because the limitation refers to client programs, this is, by definition, a location remote from the servers and, thus the user's actual location, not a virtual location.

This clarifying aspect is supported by the teaching in at least paragraph [0143] in the pre-grant publication 2004/107253.

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<sup>5</sup> See application's specification paragraph [0068] in the pre-grant publication 2004/107253.

- The independent claims have also been amended to clarify that the multiple servers are different from the communication devices used by the users and that they are separate from each other.

This clarifying aspect is supported by the teaching in at least a combination of Figures 1, 3 and 4 and their associated descriptions in the application.

- The phrase “no matter where the user is located” has been deleted from independent claims 12 and 25 in response to the Examiner’s request. This request also necessitated canceling claim 2.
- Applicants have also amended the claims to clarify that although at least two service records exist for each of the first and second users, that it is not necessary for one service record to contain the locations of both first and second user. This has been done by bifurcating prior element (c) in each independent claim into two separate elements (c) and (d), one each for the first and second user’s service records.
- A few other minor amendments have also been made to clarify and/or improve the claims.

### **CONCLUSION**

There is no prior art of record that teaches the claim limitations of keeping multiple records of a user’s communication device’s actual location, and where these records are kept in multiple separate servers, this and other features of the claims are neither taught by, inherent in nor obvious from any prior art of record or known to the applicants.

With this, together with the filing of the Terminal Disclaimer, Applicants respectfully submit that all pending claims define subject matter that is patentable over the prior art. Their immediate allowance is respectfully requested as soon as possible.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

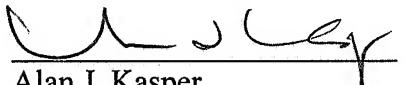
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kindly requested to contact the undersigned at the telephone number listed below or Craig Opperman at 650-843-7504.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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